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**UNITED STATES DISTRICT COURT**

# **NORTHERN DISTRICT OF CALIFORNIA**

## **SAN FRANCISCO DIVISION**

**SURGICAL INSTRUMENT SERVICE  
COMPANY, INC.**

Case No. 3:21-cv-03496-AMO

23 Plaintiff.

**DEFENDANT'S UNOPPOSED  
ADMINISTRATIVE MOTION TO  
SUPPLEMENT OMNIBUS  
SEALING MOTION**

INTUITIVE SURGICAL, INC.,

## The Honorable Araceli Martínez-Olguín

## **MOTION AND NOTICE OF MOTION**

Pursuant to Civil Local Rule 7-11 and 7-3(d), Defendant Intuitive Surgical, Inc. (“Intuitive”) hereby brings this unopposed Administrative Motion to supplement the Omnibus Sealing Motion in Connection with Defendant’s Motion for Limited Supplemental Discovery, Dkt. 253 (the “Omnibus Motion”). Pursuant to the Joint Stipulation and Order Regarding Omnibus Sealing Procedures, Dkt. 242, Intuitive filed the Omnibus Motion on September 17, 2024, asking that the Court maintain under seal two documents (specifically, settlement agreements to which Intuitive is a party) filed by Plaintiff Surgical Instrument Service Company, Inc. (“SIS”) in support of its Opposition to the Motion for Limited Supplemental Discovery. Intuitive also requested that redactions be applied to SIS’s Opposition and Intuitive’s Reply, to maintain the confidentiality of the settlement agreements.

12 By this Motion, and pursuant to the Joint Stipulation and Order Regarding  
13 Omnibus Sealing Procedures, Dkt. 242, Intuitive asks the Court to permit redactions to be  
14 applied to one additional document: the December 2, 2022 report of SIS’s damages expert,  
15 Richard Bero, which Intuitive provisionally filed under seal. *See* Brachman Decl. Ex. 2 (Dkt.  
16 243-2 (sealed), Dkt. 244-3 (public slipsheet)) (the “Bero Report”).

The Bero Report was previously filed under seal in connection with Intuitive's  
Daubert motion to exclude Bero's testimony, *see* Dkt. 126-2, and the Court previously granted  
motions to seal portions of the Bero Report in order to protect certain confidential and  
competitively sensitive information contained therein. *See* Dkt. 205 at 12–14, 22–24, 34, 36–37.  
Accordingly, a version of the Bero Report with redactions was filed publicly. *See* Dkt. 229–45.  
Intuitive respectfully requests that the Court again permit redactions to those same portions of  
the Bero Report, and grant Intuitive leave to file the redacted version of the Bero Report that was  
previously filed publicly at Dkt. 229–45 as the public version of Exhibit 2 to the Declaration of  
Paul Brachman.

26 Intuitive conferred with SIS, and SIS does not oppose this Motion.

1 An updated Proposed Order granting Intuitive's Omnibus Motion with revisions  
2 to reflect the relief sought by this Motion is attached hereto.

3  
4 Dated: September 25, 2024

By: /s/ Kenneth A. Gallo

Kenneth A. Gallo

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**CERTIFICATE OF SERVICE**

I, Kenneth A. Gallo, hereby certify that on September 25, 2024, I caused a true and correct copy of the foregoing Administrative Motion to Supplement Omnibus Sealing Motion to be electronically filed via the Court's Electronic Case Filing System, which pursuant to the Court's order of September 29, 2008, constitutes service in this action on counsel of record for Surgical Instrument Service Company, Inc.

Dated: September 25, 2024

By: /s/ Kenneth A. Gallo  
Kenneth A. Gallo

*Attorney for Intuitive Surgical, Inc.*